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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/664,797

**Applicant(s)**

NEUBERGER ET AL.

**Examiner**

THOMAS MANSFIELD

**Art Unit**

3623

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-20, 35-41, 43-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

1. This non-final Office action is in reply to the response to Office Action filed on 27 May 2008.
2. Claims 1, 6, 20, 35, 40, and 46 have been amended.
3. Claims 7, 8, 21-34, and 42 have been cancelled.
4. Claims 54-70 are new and have been added.
5. Claims 1-6, 9-20, 35-41, and 43-70 are currently pending and have been examined.
6. This office action has been made non-final in order to address a new grounds of rejection under 35 U.S.C. 101.

**Response to Amendment**

7. The Objection to the Drawings in the previous office action is withdrawn in response to Applicant's submission of new and corrected drawings.
8. The Objection to Claims in the previous office action is withdrawn in response to Applicant's amendment to Claim 46.
9. Applicant's amendments necessitated the new grounds of rejection

***Response to Arguments***

10. Applicant's arguments filed 30 May 2008 have been fully considered but they are not persuasive.
11. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

12. Applicant submits that Mechling et al (Mechling), "Defining and Measuring Success In Canadian Public Sector Electronic Service Directory", Issue Paper Prepared for Discussion and Debate at Lac Carling V, April 24, 2001, in view of Spears et al (Spears), "Citizens First 2000", Public Sector Service Delivery Council and The Institute of Public Administration of Canada, 2001), as discussed in the personal interview of May 14, 2008, do not teach or suggest in (amended) Claims 1, 20, and 35, (1) *computing, using the public sector value model, a performance value and a cost-effectiveness value based on the obtained measurements and the weightings defined in the public sector value model, and, determining a relative performance measure of the public sector organization based on the computed performance value, an average performance value relevant to the public sector organization, the computed cost-effectiveness value, and an average cost-effectiveness value relevant to the public sector organization.*
13. Applicant submits that Mechling in view of Spears above and in further view of Official Notice does not teach or suggest in (amended) Claims 1 and 20, (2) the features cited by the Office Action as being obvious or well-known are not capable of instant and unquestionable demonstration and are ineligible for official notice [see Remarks page 18, second paragraph], and (3), "a factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of argument reliant upon ex post reasoning", and, further, any and all proposed combinations of references suggested in the Office Action are believed to be improper and the Examiner has not established a prima facie case of obviousness [see Remarks, page 19].
14. With respect to argument (1), the Examiner respectfully disagrees. As discussed in the personal interview on May 14, 2008, that a cursory review of the only proposed amendment, "*a public sector value model determining a relative public performance measure based on outcomes including an average cost-effectiveness value*" may overcome the cited prior art (emphasis added). However, these limitations and the other newly amended limitations are addressed in the below rejection.

15. With respect to argument (2), the Examiner respectfully disagrees. The Applicants have not provided any technical reasons or evidence as to the assertion of why these features are not eligible for Official Notice.
16. With regard to argument (3), the Examiner respectfully disagrees. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

***Claim Rejections - 35 USC § 101***

17. 35 U.S.C. 101 reads as follows:  
  
Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
18. Claims 35-41 and 43-70 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
19. Claims 35-41 and 43-70 are rejected under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. Here, applicant's method steps, fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be preformed without the use of a particular apparatus. Thus, claims 35-41 and 43-70 are non-statutory since they may be performed within the human mind.

***Claim Rejections - 35 USC § 103***

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 1-6, 9-20, 35-41, and 43-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mechling et al (Mechling), "Defining and Measuring Success In Canadian Public Sector Electronic Service Directory", Issue Paper Prepared for Discussion and Debate at Lac Carling V, April 24, 2001, in view of Spears et al (Spears), "Citizens First 2000", Public Sector Service Delivery Council and The Institute of Public Administration of Canada, 2001), and in further view of Official Notice.

With regard to Claim 35, Mechling teaches:

- *accessing, from electronic storage, a public sector value model (a logic model or program theory model) (see at least page 21, under 5) Evaluation) that corresponds to a public sector organization (public sector institutions) (see at least the Title and page 33, second paragraph) and that defines at least two outcome measures (outcome measures) that correspond to outcomes (outputs and outcomes) (see at least page 21, paragraph 4 and page 25) achieved by the public sector organization, and at least one cost-effectiveness measure (people are often the most cost-effective measuring instruments, surveys are the most cost-effective, cost of services, cost to the citizen) (see at least page 27, paragraph 1, page 34, last paragraph, and page 42) that relates to costs incurred by the public sector organization in achieving the outcomes (Using targets or milestones as drivers for change in the public sector's pursuit of ESD [Electronic Service Delivery]) (see at least page 10, paragraph 1).*
- *obtaining measurements corresponding to the at least two outcome measures and the at least one cost-effectiveness measure (measurements taken independently can be aggregated into more comprehensive measures) (see at least page 38, paragraph 6).*
- *determining a relative performance measure (accurately measure performance) of the public sector organization (governments) based on the computed performance value, an average performance value relevant to the public sector organization, the computed cost-effectiveness value (cost savings), and an average cost-effectiveness value relevant to the public sector organization (cost savings, Level of Measurement) (see at least page 10, last paragraph through page 13, second paragraph, Figure 2, and page 22, **Results Category** scorecard).*

Mechling does not specifically teach *weightings that correspond to each of the outcome measures and that define a relative weight given to the corresponding outcome measure*. Spears teaches *weightings* (Returns were weighted by gender, age, and population of province) (see at least page 10, under Survey) *that correspond to each of the outcome measures and that define a relative weight given to the corresponding outcome measure, and computing, using the public sector value model* (Citizens First Service Model), *a performance value* (mean service quality score) (see at least page 10, under Survey) *and a cost-effectiveness value based on the obtained measurements and the weightings defined in the public sector value model* (see at least page 18) in analogous art of public sector service for the purposes of, "to produce a sample that matches Canadian demographics" (see at least page 10, under Survey).

Mechling and Spears are combinable since they both seek to rate public service organizations by statistical modeling. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Citizens First 2000 as taught by Spears with the electronic service delivery method of Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit of yielding normalized data for a more accurate group comparison (Spears, page 10, paragraph 7 through page 11, third paragraph).

With regard to Claim 36, Mechling teaches *wherein obtaining measurements includes obtaining measurements from public data sources* (data collection instruments, individual citizens) (see at least page 35, paragraph 1).

With regard to Claim 37, Mechling teaches *wherein obtaining measurements from public data sources includes obtaining background information from the organization* (performance of the same organization at an earlier period of time) (see at least page 35, paragraph 3).



With regard to Claim 38, Mechling teaches *comparing the relative public performance measure with performance trends (scales used for comparison (versus goals, versus other service providers, versus a "maturity model," etc.))* (see at least page 28, last paragraph).

With regard to Claim 39, Mechling teaches *making recommendations to the organization on the basis of the comparing (conclusions and recommendations)* (see at least page 39, paragraph 2 and Figure 6.).

With regard to Claim 40, Mechling teaches *wherein computing, using the public sector value model, a cost-effectiveness value comprises computing a cost-effectiveness value as a ratio of the computed performance value over a combination of annual expenditure and capital charge (estimated benefit/cost (B/C) ratios)* (see at least page 32, paragraph 1).

With regard to Claim 41, Mechling teaches *excluding exogenous factors associated with an outcome measure (ignore societal-level outcomes)* (see at least page 22, first paragraph).

With regard to Claim 43, Mechling does not teach *wherein the public sector organization includes at least one of: public health, revenue service, educational, police, courts, probation, fire, public transport, prisons, customs, immigration, postal services, regulatory bodies, public housing, defense, social security, customs, and public welfare*. Spears teaches *wherein the public sector organization includes at least one of: public health (hospitals), revenue service (Revenue Agency), educational, police (police), courts, probation, fire (fire departments), public transport, prisons, customs, immigration, postal services, regulatory bodies, public housing, defense (Coast Guard Search and Rescue), social security, customs, and public welfare* in analogous art of service improvement in the public sector for the purposes of, "Results show a broad range of access rating across all levels of government" (see at least page 25, paragraphs 1-3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the weighting feature taught by Spears with the electronic service deliver (ESD) method as taught by Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit of having the broadest display of an analysis across all levels of government" (Spears, page 25, paragraphs 1-3).

With regard to Claim 44, Mechling does not specifically teach *wherein, in the police organization, an outcome measure includes at least one of: public satisfaction with the police organization, reduction of crime, solving a crimes, and public served; and cost-effectiveness measure includes at least one of: reduction of variable cost, reduction of fixed cost, increase in asset efficiency*. Spears teaches *wherein, in the police organization, an outcome measure includes at least one of: public satisfaction with the police organization* (Police were very professional and did 'top notch' job!") (see at least page 20, in box "Citizens speak out") (2. Access, Access Access:) (see at least page 76), *reduction of crime, solving a crimes, and public served* in analogous art of service improvement in the public sector for the purposes of, "...to look at what their actual experience is and discover whether their concerns involve perception or reality" (see at least page 23, paragraph 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the weighting feature taught by Spears with the electronic service deliver (ESD) method as taught by Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit of an improved comparison of different organizations regarding public satisfaction (Spears, page 23, paragraph 3).

Mechling does not specifically teach *cost-effectiveness measure includes at least one of: reduction of variable cost, reduction of fixed cost, increase in asset efficiency*. Spears teaches *cost-effectiveness measure includes at least one of: reduction of variable cost, reduction of fixed cost, increase in asset efficiency* (2. Access, Access, Access:) in analogous art of service improvement in the public sector for the purposes of, "Streamline multiple channels into cost-effective, citizen-centered single gateways to service" (see at least page 76, under 2. Access, Access, Access:).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the weighting feature taught by Spears with the electronic service deliver (ESD) method as taught by Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit of the reduction of extra costs associated with obtaining a public service (Spears, page 76, under 2. Access, Access, Access:).

With regard to Claim 45, Mechling does not specifically teach *wherein, in the public health organization, an outcome measure includes at least one of: improved health care, reduced errors in prescriptions*. Spears teaches *wherein, in the public health organization, an outcome measure includes at least one of: improved health care* (Service quality (0-100), *reduced errors in prescriptions* in analogous art of service improvement in the public sector for the purposes of, "Averaging across these services therefore gives a reasonable approximation of services "in general"" (see at least page 50, sentence 1 and Figure 26).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the weighting feature taught by Spears with the electronic service deliver (ESD) method as taught by Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit of a specialized comparison of different organizations regarding public satisfaction (Spears, page 50, sentence 1 and Figure 26).

Mechling does not specifically teach *cost-effectiveness measure includes at least one of: reduction of variable cost, reduction of fixed cost, increase in asset efficiency*. Spears teaches *cost-effectiveness measure includes at least one of: reduction of variable cost, reduction of fixed cost, increase in asset efficiency* (2. Access, Access, Access:) in analogous art of service improvement in the public sector for the purposes of, "Streamline multiple channels into cost-effective, citizen-centered single gateways to service" (see at least page 76, under 2. Access, Access, Access:).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the weighting feature taught by Spears with the electronic service deliver (ESD) method as taught by Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit of the reduction of extra costs associated with obtaining a public service (Spears, page 76, under 2. Access, Access, Access:).

With regard to Claim 46, Mechling does not specifically teach *wherein, in the revenue service organization, an outcome measure includes at least one of: improved tax compliance, citizen satisfaction*. Spears teaches *wherein, in the revenue service organization (CCRA), an outcome measure includes at least one of: improved tax compliance, citizen satisfaction* (Timeliness, courtesy, extra smile) in analogous art of service improvement in the public sector for the purposes of, "This set of analyses shows that the five drivers do tend to recur across very different types of service (Figure 21)" (see at least page 41, last paragraph and Figure 21).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the weighting feature taught by Spears with the electronic service deliver (ESD) method as taught by Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit of a specialized comparison of different organizations regarding public satisfaction (Spears, page 50, sentence 1 and Figure 21 and Figure 26).

Mechling does not specifically teach *cost-effectiveness measure includes at least one of: reduction of variable cost, reduction of fixed cost, increase in asset efficiency*. Spears teaches *cost-effectiveness measure includes at least one of: reduction of variable cost, reduction of fixed cost, increase in asset efficiency* in analogous art of service improvement in the public sector for the purposes of, "Streamline multiple channels into cost-effective, citizen-centered single gateways to service" (see at least page 76, under 2. Access, Access, Access:).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the weighting feature taught by Spears with the electronic service deliver (ESD) method as taught by Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit of the reduction of extra costs associated with obtaining a public service (Spears, page 76, under 2. Access, Access, Access:).

With regard to Claim 47, Mechling does not specifically teach *providing a recommendation to the public sector organization that includes at least one proposed solution to improve the relative performance measure of the public sector organization*. Spears teaches *providing a recommendation to the public sector organization that includes at least one proposed solution to improve the relative performance measure of the public sector organization* in analogous art of service improvement in the public sector for the purposes of, "suggested several additional solutions to problems with accessing services via telephone (Figure 17)" (see at least page 34, last paragraph and Figures 16 and 17).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the weighting feature taught by Spears with the electronic service deliver (ESD) method as taught by Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit of an improved recommendation based on the analysis of the performance measures (Spears, page 34, last paragraph and Figures 16 and 17).

With regard to Claim 48, Mechling teaches *providing a recommendation to the public sector organization that includes at least one consulting service to improve the relative performance measure of the public sector organization (...with the help of a private consortium lead by Deloitte Consulting and NIC,...)* (see at least page 5, first paragraph).

With regard to Claim 49, Mechling teaches *wherein determining a relative performance measure includes evaluating the performance of the public sector organization as a function of time (developed the Common Measurements Tool (CMT) as a vehicle to bring consistency to client satisfaction measurement across time and between organizations)* (see at least page 23, first paragraph).

With regard to Claim 50, Mechling teaches *deriving a proposed solution for improving the relative performance measure on the basis of evaluating the performance of the public sector organization as a function of time* (suggested that replacing the Department of Transportation's call center with a web-based system could save taxpayers more than \$240, 000 per year) (see at least page 24, first paragraph).

With regard to Claim 51, Mechling does not specifically teach *wherein determining a relative performance measure includes evaluating the performance of the public sector organization by comparing one public sector organization having one relative performance measure to another public sector organization having another relative performance measure*. Spears teaches *wherein determining a relative performance measure includes evaluating the performance of the public sector organization by comparing one public sector organization having one relative performance measure to another public sector organization having another relative performance measure* in analogous art of service improvement in the public sector for the purposes of, "Since the results compare different services at each level,...", and, "...they may

simply reflect a set of services at one level that are inherently easier to access than the sets at other levels" (see at least page 31, last paragraph through page 32 and Figure 13).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the weighting feature taught by Spears with the electronic service deliver (ESD) method as taught by Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit of a broader yield of a normalized analysis of comparison between the different public sector organizations (Spears, page 31, last paragraph through page 32 and Figure 13).

With regard to Claim 52, Mechling does not specifically teach *deriving a proposed solution for improving a relative performance measure on the basis of comparing one public sector organization having one relative performance measure to another public sector organization having another relative performance measure*. Spears teaches *deriving a proposed solution for improving a relative performance measure on the basis of comparing one public sector organization having one relative performance measure to another public sector organization having another relative performance measure* in analogous art of service improvement in the public sector for the purposes of, "Solutions to some of the problems are quite clear. If a phone line is overly busy, for example, it indicates a need for more operators..." (see at least page 34, last paragraph and Figures 15-17).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the weighting feature taught by Spears with the electronic service deliver (ESD) method as taught by Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit of an increased awareness to have a suggestion or solution to improve the performance measure (Spears, page 34, last paragraph and Figures 15-17).

With regard to Claim 53, Mechling does not specifically teach *using the relative performance measure to perform a correlation analysis between the relative performance measure and a particular outcome measure or a particular cost-effectiveness measure*. Spears teaches *using the relative performance measure to perform a correlation analysis between the relative performance measure and a particular outcome measure or a particular cost-effectiveness measure* in analogous art of service improvement in the public sector for the purposes of, "The correlation between these variables is near zero" (see at least page 25, paragraph 6).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the weighting feature taught by Spears with the electronic service deliver (ESD) method as taught by Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit to have a more defined benefit vs. cost correlation and comparison between the different public sector organizations (Spears, page 25, paragraph 6).

With regard to Claim 54, Mechling teaches:

- *accessing past performance values for the public sector organization, each past performance value corresponding to a particular period of time in the past (at an earlier time period, history) (see at least page 35, paragraph 3).*
- *computing an average performance value for the public sector organization based on the past performance values (surveys can be aggregated across time and across boundaries) (see at least page 40, last paragraph through page 41, first paragraph).*
- *accessing past cost-effectiveness values (efficiency) for the public sector organization, each past cost-effectiveness value corresponding to a particular period of time in the past (measures to be compared across time and jurisdictional boundaries) (see at least page 38, last paragraph).*



- *computing an average cost-effectiveness value for the public sector organization based on the past cost-effectiveness values, wherein determining a relative public performance measure of the public sector organization comprises determining a relative public performance measure of the public sector organization based on the computed performance value, the computed average performance value for the public sector organization, the computed cost-effectiveness value, and the computed average cost-effectiveness value for the public sector organization (measures to be compared across time and jurisdictional boundaries) (see at least page 38, last paragraph).*

With regard to Claims 55-57, 59-61 and 68, Mechling does not specifically teach the *displaying and displaying an axis of a graphical representation of the determined relative public performance measure of the public sector organization with respect to the computed average performance value for the public sector organization and the computed average cost-effectiveness value for the public sector organization automatically*. Although Spears teaches displaying and displaying an axis of a graphical representation of the determined relative public performance measure of the public sector organization (see at least Figures 18-34), Spears does not specifically teach a graphical representation *with respect to the computed average performance value for the public sector organization and the computed average cost-effectiveness value for the public sector organization*. Official Notice is taken that is was old and well known to graphically display results based on calculations. It would have been obvious to one of ordinary skill in the art at the time of the invention to include graphically displaying results as taught by Spears with the electronic service deliver (ESD) method as taught by Mechling.

With regard to Claim 58, Mechling teaches:

- *accessing performance values for other public sector organizations (one program or ministry against another, other jurisdictions), each performance value corresponding to a particular public sector organization that is different than the public sector organization (see at least page 44, last paragraph through page 45, first paragraph).*
- *computing an average performance value for a public sector industry based on the accessed performance values (benchmarking) (see at least page 45, last paragraph).*
- *accessing cost-effectiveness values for the other public sector organizations, each cost- effectiveness value corresponding to a particular public Sector organization that is different than the public sector organization (see at least page 34, last paragraph through page 36, first paragraph).*
- *computing an average cost-effectiveness value for the public sector industry based on the accessed cost-effectiveness values, wherein determining a relative public performance measure of the public sector organization comprises determining a relative public performance measure of the public sector organization based on the computed performance value, the computed average performance value for the public sector industry, the computed cost-effectiveness value, and the computed average cost-effectiveness value for the public sector industry (see at least page 34, last paragraph through page 36, first paragraph).*

With regard to Claims 62 and 63, Mechling teaches *receiving, for the public sector organization, a first measurement corresponding to the first outcome measure, and receiving, for the public sector organization, a second measurement corresponding to the second outcome measure* (outcomes (including client-level, department level, and societal-level outcomes) (see at least page 21, last paragraph thought page 22, first paragraph).

Mechling does not specifically teach *a first outcome measure for the public sector organization, a first weighting value associated with the first outcome measure, the first weighting value corresponding to a relative weight of the first outcome measure in the public sector value model, a second outcome measure for the public sector organization, the second outcome measure being different than the first outcome measure, and a second weighting value corresponding to the second outcome measure, the second weighting value being different than the first weighting and corresponding to a relative weight of the second outcome measure in the public sector value model and wherein computing, using the public sector value model, a performance value comprises: applying the first weighting value to the first measurement to achieve a first result, applying the second weighting value to the second measurement to achieve a second result, and calculating a performance value for the public sector organization based on the first result and the second result*. Spears teaches *a first outcome measure* (Ratings based on outcome) *for the public sector organization, a first weighting value associated with the first outcome measure, the first weighting value corresponding to a relative weight of the first outcome measure in the public sector value model, a second outcome measure for the public sector organization, the second outcome measure being different than the first outcome measure, and a second weighting value corresponding to the second outcome measure, the second weighting value being different than the first weighting and corresponding to a relative weight of the second outcome measure in the public sector value model and wherein computing, using the public sector value model, a performance value comprises: applying the first weighting value to the first measurement to achieve a first result, applying the second weighting value to the second*

*measurement to achieve a second result, and calculating a performance value for the public sector organization based on the first result and the second result* (see at least page 18) in analogous art of public sector service for the purposes of, "to produce a sample that matches Canadian demographics" (see at least page 10, under Survey).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Citizens First 2000 as taught by Spears with the electronic service delivery method of Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit of yielding normalized data for a more accurate group comparison (Spears, page 10, paragraph 7 through page 11, third paragraph).

With regard to Claim 64, Mechling teaches *wherein computing, using the public sector value model, a cost-effectiveness value comprises computing a cost-effectiveness value by dividing a first value that represents a total of beneficial outcomes achieved by the public sector organization by a second value computed as a sum of annual expenditure of the public sector organization minus capital expenditure of the public sector organization and annual capital charge of the public sector organization* (estimated benefit/cost (B/C) ratios) (see at least page 32, paragraph 1)..

With regard to Claim 65, Mechling teaches:

- *obtaining measurements corresponding to the at least one cost-effectiveness measure comprises obtaining a measurement related to variable costs of the public sector organization in achieving the outcomes* (activity based costing (ABC)) (see at least page 24, paragraphs 2 and 3).
- *computing, using the public sector value model, a cost-effectiveness value comprises computing, using the public sector value model, a cost-effectiveness value that reflects variable costs of the public sector organization in achieving the outcomes based on the measurement related to*

*variable costs of the public sector organization in achieving the outcomes (activity based costing (ABC)) (see at least page 24, paragraphs 2 and 3)..*

With regard to Claim 66, teaches:

- *obtaining measurements corresponding to the at least one cost-effectiveness measure comprises obtaining a measurement related to fixed costs of the public sector organization in achieving the outcomes (activity based costing (ABC), "hard" costs) (see at least page 24, paragraphs 2 and 3).*
- *computing, using the public sector value model, a cost-effectiveness value comprises computing, using the public sector value model, a cost-effectiveness value that reflects fixed costs of the public sector organization in achieving the outcomes based on the measurement related to fixed costs of the public sector organization in achieving the outcomes (activity based costing (ABC), "hard" costs) (see at least page 24, paragraphs 2 and 3).*

With regard to Claim 67, Mechling teaches:

- *obtaining measurements corresponding to the at least one cost-effectiveness measure comprises obtaining a measurement related to asset efficiency of the public sector organization in achieving the outcomes (efficiency) (see at least page 28, last paragraph).*
- *computing, using the public sector value model, a cost-effectiveness value comprises computing, using the public sector value model, a cost-effectiveness value that reflects asset efficiency of the public sector organization in achieving the outcomes based on the measurement related to asset efficiency of the public sector organization in achieving the outcomes (efficiency) (see at least page 28, last paragraph).*

With regard to Claim 68, Mechling teaches:

- automatically, without human intervention, *identifying the particular outcome measure (Efficiency) that needs improvement for the public sector organization* (see at least page 38, last paragraph).

Mechling does not specifically teach *automatically, without human intervention, displaying a particular outcome measure that needs improvement for the public sector organization based on obtained measurements associated with the particular outcome measure*. Spears teaches *automatically, without human intervention, displaying a particular outcome measure that needs improvement for the public sector organization based on obtained measurements associated with the particular outcome measure* in analogous art of public sector service for the purposes of, "efforts to improve the Blue Pages have not impressed themselves onto citizens" (see at least page 35, paragraphs under Rating the Blue Pages through page 36, first paragraph and Figure 18).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Citizens First 2000 as taught by Spears with the electronic service delivery method of Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit of showing the results based on a percentage of citizens in agreement (Spears, page 35, paragraphs under Rating the Blue Pages through page 36, first paragraph and Figure 18).

With regard to Claim 69, Mechling teaches:

- *comparing values for outcome measures for the public sector organization with values for the outcome measures for public sector organizations other than the public sector organization* (see at least page 18, line items 4 and 5).
- *identifying the particular outcome measure that needs improvement for the public sector organization* (see at least page 18, line items 4 and 5)..

With regard to Claim 70, Mechling teaches:

- automatically, without human intervention, identifying a service directed to improving the particular outcome measure (efficiency) (see at least page 38, last paragraph).

Mechling does not specifically teach *automatically, without human intervention, displaying the identified service*. Spears teaches *automatically, without human intervention, displaying the identified service* in analogous art of public sector service for the purposes of, "efforts to improve the Blue Pages have not impressed themselves onto citizens" (see at least page 35, paragraphs under Rating the Blue Pages through page 36, first paragraph and Figure 18).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Citizens First 2000 as taught by Spears with the electronic service delivery method of Mechling. One of ordinary skill in the art would have been motivated to do so for the benefit of showing the results based on a percentage of citizens in agreement (Spears, page 35, paragraphs under Rating the Blue Pages through page 36, first paragraph and Figure 18).

With regard to Claims 1-6, 9-19, and Claim 20, these claims recite *system* and *computer program product* limitations for the above *method* claims. Although Mechling and Spears do not specifically teach a *system* and *computer program product*, Official Notice is taken that to automate methods are old and well known measures in the art at the time of the invention.

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine a computer system and computer program product with the teachings of Mechling in view of Spears.

***Conclusion***

**22. Examiner's Note:**

The invention, as disclosed in the instant application, is directed to a public sector value model.

The instant application may disclose patentable subject matter however not all of the disclosed potentially patentable subject matter is recited in the claims. An interview with the Examiner may be productive.

**23. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:**

- Smith et al. (U.S. Pub. No. 2004/0068431) discloses methods and systems for measuring business performanc.
- Mann et al. (U.S. Pub. No. 2002/0019765) discloses a performance measurement and management method.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS MANSFIELD whose telephone number is (571)270-1904. The examiner can normally be reached on Monday-Thursday 8:30 am-6 pm, alt. Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Van Doren Boswell can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. M./  
Examiner, Art Unit 3623

13 September 2008  
Thomas Mansfield

/Scott L Jarrett/  
Primary Examiner, Art Unit 3623